MAY-JUNE 2001 COURT NEWS

# On Assignment in Dependency Court

Conversation With Justice Richard D. Huffman



Justice Richard D.
Huffman
Court of Appeal,
Fourth
Appellate District

Appellate justices are the ultimate generalists, according to Justice Richard D. Huffman, Court of Appeal, Fourth Appellate District. However, in recent months, Justice Huffman has worked as a judicial specialist, volunteering for a special assignment in juvenile dependency court.

From the last week in February until his assignment ended the first week in May, Justice Huffman served as a trial court judge in the juvenile dependency court in the Meadowlark facility of the Superior Court of San Diego County. This facility houses the county's principal juvenile courts, which consist of three dependency courts and a series of delinquency courts.

For someone who originally intended to become a business lit-

signment in San Diego County's juvenile dependency court.

#### Tell us how you came to the assignment in the San Diego County juvenile dependency court?

I chose this assignment for several reasons. First, since I've been on the Court of Appeal, I've been working in the trial courts for some period of time virtually each year. So, this is part of my annual "return to reality" in the trial courts. Second, our court has a substantial caseload of dependency work on appeal. Division One of the Court of Appeal, Fourth District, has a fast-track program for resolving juvenile dependency appeals. Since the appellate court is committed to

the exercise of discretion and evidentiary rulings.

# What is your overall impression of the juvenile dependency court in San Diego County?

I have been impressed by the way court officers are managing the difficult conditions and tremendous workload. Judges and referees are heavily burdened with a continuing line of cases. Attorneys usually have far more cases than probably is reasonable to handle.

### How have these courts changed in recent years?

The law in dependency court has changed dramatically in the last 10 to 12 years. The Legislature has emphasized a preference for adoption in cases where reunification with the parent is impossible, and it has also stressed that the processes be sped up for reunification or establishing permanency for children.

#### What are the benefits for the parties involved in a juvenile dependency court like the one in San Diego?

From the perspective of the public, we are helping families get back together on a more stable

# What effect do you think collaborative justice courts such as dependency court will have on the criminal justice system?

Down the road, there is going to be further pressure on the judicial system to try and deliver courts like these. Based upon what I've seen and the statistics available in the system I'm working in right now, the court has made enormous strides to benefit the public. The court's recovery system has saved far more money than it has cost. These courts are cutting not only financial cost but, more importantly, social costs to the children in foster care. Collaborative courts, properly run, have a place in the judicial system and will probably expand over time.

#### What is the biggest challenge that collaborative justice courts face?

Part of the difficulty in operating these courts is that we have not allocated to them the necessary share of resources. We need to encourage governors to make additional judicial appointments and have other judges willing to work in the areas of juvenile and family law. It makes no sense to have the smallest percentage of

### "A judge can do more good for the public in a courtroom like this in one week than in two to three years in another assignment."

igator, Justice Huffman is no stranger to the criminal justice system. After graduating with a law degree from the University of Southern California in 1965, he joined the California Department of Justice as a deputy attorney general (1966–1971). From there, he took a position with the San Diego District Attorney's Office, serving as chief deputy district attorney from 1971 to 1981 and as assistant district attorney from 1981 to 1985.

Justice Huffman has shared his experience and expertise in criminal law with others in the legal system. He teaches courses in criminal law and procedure and mental defenses as an adjunct professor at the University of San Diego and is the former director of the university's Center for Criminal Justice Policy and Management. He is a fellow of the American College of Trial Lawyers and is an honorary diplomate of the American Board of Trial Advocates.

this process, I felt I should see the dependency court firsthand and get a feel for how it operates. Third, it is important for me to experience this operation as a member of the Judicial Council. The council has been concerned about the lack of adequate resources for family and juvenile courts. Finally, I think this is one

# "Something is out of balance when we have family courts with cramped quarters, heavy calendars, and much of the work being done by pro tems and subordinate judicial officers."

of the most important areas of the court system. Family and juvenile court is a place to which we should be willing to dedicate time and resources.

# Are assignments like this standard for appellate justices? What are the advantages to taking these kinds of temporary positions?

As far as I know, there are only a few appellate justices who take

basis and giving children a better chance in life. I am very impressed with programs here in San Diego County. Judge [James R.] Milliken and the other judges are almost crusaders in their efforts to address problems such as substance abuse. This court has a very aggressive substance abuse recovery system that has recorded some remarkable results and has almost reversed the rate of parent-child reunifi-

judges in the areas that have the highest impact on the public. Something is out of balance when we have family courts with cramped quarters, heavy calendars, and much of the work being done by pro tems and subordinate judicial officers.

# What should the Judicial Council's role be in relation to collaborative justice courts?

The council's role should be to set a policy for the state that demonstrates the importance of family, juvenile, and other collaborative justice courts. The council needs to make it clear that this is a statewide priority when advocating for resources, and it should encourage local courts to allow for adequate funding for their own programs. In addition, the council needs to provide leadership in finding a way to encourage the brightest in our judiciary to volunteer for these valuable assignments. ■

#### "[B]y taking local court assignments, appellate justices gain a healthy perspective on the challenges faced by trial judges when making decisions on the exercise of discretion and evidentiary rulings."

Justice Huffman began his career on the bench of the Superior Court of San Diego County in 1985 and in 1988 was elevated to the Court of Appeal, Fourth Appellate District. In 1996, Chief Justice Ronald M. George appointed him to the Judicial Council, where he serves as chair of the Executive and Planning Committee.

Court News spoke with Justice Huffman regarding his as-

assignments in the trial courts with any regularity. The principal advantage is that you are able to see the actual operation of the trial court system. At the appellate court level, we only get exposed to certain portions of the case and do not receive its full context. In addition, by taking local court assignments, appellate justices gain a healthy perspective on the challenges faced by trial judges when making decisions on

cation. Reunifying qualified individuals with their children and shortening the children's stay in foster homes is a great service to the parties involved in the system. And in cases where reunification is not possible, the court is achieving finality by getting kids into permanent placements. A judge can do more good for the public in a courtroom like this in one week than in two to three years in another assignment.

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### Numbers, Numbers, Numbers

JUDGE J. RICHARD COUZENS SUPERIOR COURT OF PLACER COUNTY

Cince the enactment of Cali-Ofornia's three-strikes law in March 1994, more than 340 appellate opinions have been published attempting to explain this complex, confusing, and controversial law. As judges, we often are caught up in our individual cases, each with their unique legal issues and sentencing choices. Perhaps we forget that this law has touched many lives. It is to some of the interesting demographics of the people sentenced under the three-strikes law that this article now will turn. The statistics have been provided by the Department of Corrections as of January 31, 2001. They are offered without comment. The reader is free to give the numbers any interpretation deemed appropriate.

#### **The Total Numbers**

Since the enactment of the threestrikes law, 56,084 people have been sent to state prison as second- or third-strike offenders; 6,615 have been convicted of third-strike crimes, and 49,469 of second-strike offenses. The rate of commitment for second-strike offenders has varied: 5,980 in 1995; 7,499 in 1996; 8,005 in 1997; 9,131 in 1998; 8,774 in 1999; and 7,935 in 2000. The rate of commitment for thirdstrike offenders has been a little more constant: 858 in 1995; 1,328 in 1996; 1,223 in 1997; 1,164 in 1998; 1,061 in 1999; and 813 in 2000. Somewhat discounting the significance of the 2000 commitments because many offenders from that year have yet to come to trial, the commitment rate for second-strike offenses generally has been on the increase, while commitments for third-strike offenses gradually have been declining.

median age is 36. Less than 1 percent of third-strike offenders are female, 383 (6 percent) are age 50 and over, and 18 (0.3 percent) are under age 20.

#### **Racial Composition**

Forty-four percent of thirdstrike offenders are African American; 26 percent are His-

percent of these crimes have been robberies.

Forty percent of third-strike offenders have committed crimes against persons; 45 percent of these convictions are for robbery. Property crimes account for 30 percent of the inmates; 36 percent of these inmates are incarcerated for committing firstdegree burglary, 22 percent for second-degree burglary, and 327 persons (16 percent) for petty theft with one prior. Eighteen percent of third-strike commitments are for drug offenses; of these, 52 percent are for simple

In the years to come it will be interesting to watch the impact of Proposition 36 on commitments of strike offenders convicted of drug possession crimes. At least some of the individuals who commit such offenses after July 1, 2001, likely will be eligible for probation and local drug treatment programs. ■



Judge J. Richard Couzens

Judge Couzens is a former member of the Judicial Council and past chair of its Criminal Law Advisory Committee.



#### Where Do They Come From?

Not surprisingly, approximately 41 percent of the offenders come from Los Angeles County. The next highest county, San Diego, accounts for approximately 10 percent of the commitments. Five counties have had no third-strike commitments. Alpine County, with a population of 1,200, has never imposed a strike sentence of any kind.

#### Age and Sex

Approximately 42 percent of the second-strike offenders range in age from 30 to 39; the median age is 33. Five percent of secondstrike offenders are female, 1,883 (4 percent) are age 50 and over, and 748 (1.5 percent) are under the age of 20.

Approximately 50 percent of the third-strike offenders range in age from 30 to 44; the panic-Mexican; and 26 percent are White. Thirty-seven percent of second-strike offenders are African American; 33 percent are Hispanic-Mexican; and 27 percent are White.

#### **The Kinds of Crimes** Committed

Thirty-three percent of secondstrike offenders have committed property crimes. Twenty-eight percent of these individuals (4,552 persons) who committed property crimes have been sentenced for petty theft with one prior, 22 percent for seconddegree burglary, and 15 percent for first-degree burglary. Drug offenses account for 32 percent of the commitments; 64 percent of these are for simple possession. Twenty-three percent of secondstrike offenders have committed crimes against persons, and 36

#### **Members of the Advisory Task Force on Multijuris**dictional Practice

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### Licensing Out-of-State Lawyers

Due to advances in technology, American society and business today are less defined by geography, and lawyers increasingly find themselves representing clients who have a presence in multiple jurisdictions. In light of this fact, should attorneys who are licensed to practice law in other states but who have not passed the California State Bar exam be permitted to practice law in California? To address this question, the California Supreme Court created the Advisory Task Force on Multijurisdictional Practice, which plans to release an initial report on the subject July 31 for public comment.

The Supreme Court created the task force in January 2001 in response to Senate Bill 1782, which was introduced during last year's legislative session by Senator Bill Morrow. As introduced, the bill would have permitted an attorney to practice in California if he or she was licensed to practice in another jurisdiction, had been practicing for three years, and was in good standing with his or her state's bar.

However, many of those involved in the court system expressed concern as to whether SB 1782 would ensure that clients in California are served by qualified lawyers whose conduct is subject to appropriate regulation. Senator Morrow then amended the bill, and the final version adopted by the Legislature requested that the Supreme Court adopt rules permitting the admission of attorneys licensed in other states if those states afford reciprocity to attorneys licensed in California. Recognizing that the issue of reciprocal admission is complex, the revised bill directed the state's high court to appoint a group "to study and make recommendations regarding whether and under what circumstances attorneys who are licensed to practice law in other states . . . may be permitted to practice law in California."

Members of the task force include prominent community and bar leaders from a variety of practices and backgrounds, as well as experts in ethics and bar admissions. Chairing the task

force is Raymond Marshall, a partner at McCutchen, Doyle, Brown & Enersen in San Francisco and the former president of the State Bar of California and the Bar Association of San Francisco. Joshua Paul Davis, Associate Professor at the University of San Francisco Law School and chair of its Center for Applied Legal Ethics, is reporter for the task force. The task force includes attorneys who are active in American Bar Association and State Bar of California committees that are also studying multijurisdictional practice.

The initial report for public comment will be posted on the California Courts Web site at www.courtinfo.ca.gov/invitationstocomment/, and it will be mailed to bar associations and other interested groups. The task force is expected to make its final recommendations to the Supreme Court by the end of the year.

 For more information. contact Susan Goins, Office of the General Counsel, 415-865-7990, e-mail: susan.goins@jud.ca.gov. ■ MAY-JUNE 2001 COURT NEWS



Thomas A. Henderson

### Congress Addressing Appropriations, Juvenile Justice, and Information Systems

THOMAS A. HENDERSON, Ph.D. EXECUTIVE DIRECTOR OFFICE OF GOVERNMENT RELATIONS NATIONAL CENTER FOR STATE COURTS

#### **FY 2002 Appropriations**

The fiscal year 2002 appropriations policy season began on February 28 when the President submitted a broad outline of his proposed budget to Congress. As often happens in Washington, "the devil is in the details" and the President's budget is just the first (though important) round.

According to the President's budget, the State Justice Institute is to receive \$6.85 million (FY 2001 funding) and the Legal Services Corporation (LSC) is allocated \$329 million (also FY 2001). The LSC, however, may have additional trouble in Congress this year in the aftermath of the U.S. Supreme Court decision in LSC v. Velazquez handed down on February 28, 2001. In this decision, the Court struck down a congressional ban on LSC lawyers going to court on behalf of their clients to challenge the validity of welfare laws and regulations, a restriction imposed since 1996. Congress could retaliate in the budget process.

The U.S. Department of Justice (DOJ) may also be in trouble from a funding perspective. Commenting on the DOJ's state and local grant assistance programs, the budget states, "The 2002 Budget proposes redirecting \$1.5 billion (of about \$4.5 billion) from programs that have accomplished their initial objective, have been awarded on a noncompetitive basis through legislative action (earmarks), or are otherwise of questionable merit. The reallocation will permit increases for Federal law enforcement agency priorities, as well as for selected state and local grants." The Violence Against Women Act is the only program of interest to state courts that is specifically cited as a priority for these reallocated dollars.

The President promises to



present a more detailed budget proposal the second week of April (not available at press time), and congressional activity is sure to follow. Given the close partisan divisions in the House and the even split in the Senate, this promises to be a long appropriations season.

#### Juvenile Justice—H.R. 863

On March 28, the House Judiciary Committee reported out favorably H.R. 863, the Consequences for Juvenile Offenders Act of 2001. H.R. 863 would authorize \$1.5 billion in grants to "States, for use by States and units of local government" over a three-year period. As such, it provides authorization language for the Juvenile Accountability Block Grants (\$250 million in FY 2001), which have been in existence for four years based solely on appropriation language.

H.R. 863 is noteworthy in that it has almost no conditions states must meet to receive funds, merely requiring them to have "graduated sanctions" in order to qualify (and has some exceptions even to that condition). In the 106th Congress a similar authorization bill (H.R. 1501) got caught up in an "Omnibus Crime Bill" that had restrictions on gun sales in the Senate version as well as severe punishments for juveniles and "moral" mandates in the House version. This year, H.R. 863 has bipartisan support and a chance of passage, at least in the House, without similarly controversial amendments.

H.R. 863's major drawback, from a state court perspective,

is the fact that it is basically a revenue-sharing bill, which means the funds will be controlled by the state and local executive branches. The National Center for State Courts' (NCSC) Office of Government Relations is attempting to change this but, so far, has been thwarted by Department of Justice opposition to allowing state courts to apply for funds directly.

### Integrated Information Systems

The Office of Justice Programs (OJP) held two meetings in March to encourage coordination of standards development efforts for automated information systems. Attendees at the first meeting, on March 1–2, included representatives from law enforcement, probation, the National Technology and Information Administration (the old Bureau of Standards), courts, FBI, and the private sector.

The recommendations from that meeting were based on the assumption that the primary energy for developing standards is likely to come from various disciplines and organizations. Therefore, what is needed is a national body that will encourage these groups to coordinate their efforts on issues of common concern. The meeting participants recommended that the Global Justice Information Network Advisory Committee (Global) serve as the coordinating body because it is, in effect, a "group of groups."

Global's membership consists of delegates from 30 different associations of state and local

officials representing all of the disciplines involved in criminal justice. These include law enforcement, adult courts, juvenile courts, corrections, prosecutors, public defenders, federal agencies such as the FBI and Treasury, and groups not usually thought of as part of the justice community such as motor vehicles administrators. Global was formed by Attorney General Janet Reno to advise her on the future development of justice information systems.

On March 15, the reconstituted Global Committee (that now includes representatives from the Conference of State Court Administrators and the National Association for Court Management) agreed to be the coordinating body that will facilitate the development of standards for integrated automated information systems. It assigned this task to its Subcommittee on Infrastructure, which is chaired by Gerry Wethington, Chief Information Officer for the State of Missouri.

On March 28, the OJP held a meeting regarding the development of standards for the use of XML (eXtensible Markup Language) in justice activities. Represented at this meeting were groups such as Legal XML, the Joint Task Force on Rap Sheet Standardization, National Association of State Information Resource Executives, National Law Enforcement Telecommunications System (NLETS), the NCSC, and several state agencies. It became clear during the discussion that there were many areas of common interest among these agencies' initiatives (e.g., personal descriptions, motor vehicle summaries, etc.) that would benefit from a consensus on XML "tags." However, the meeting proved too brief to reach closure on which standards should be used. OJP is expected to take the initiative in establishing a venue for further negotiations to take place, perhaps under the auspices of Global. ■

### **National Conference Spotlights Drug Courts**

The National Association of Drug Court Professionals (NADCP) continues its push to expand the drug court movement with its Seventh Annual Training Conference, to be held in New Orleans from May 31 to June 1. This year's conference, the theme of which is "Changing the Face of Criminal Justice," will showcase practitioners who are creating innovative programs and initiatives for existing and future drug courts.

During the conference, four plenary sessions will explore different aspects of drug courts. These sessions include "Mother/Child Bonds: Louisiana Drug Court Graduates Tell Their Stories," in which drug court graduates describe how the process helped steer them to recovery and unite them with their previously estranged children; "Why Can't I Drink in Drug Court," which will foster debate on the role of alcohol when it is encompassed by the treatment regimen of a drug court environment; and "How Can the

Drug Court Movement Partner Effectively With State and Local Drug Abuse Directors," in which drug court practitioners and representatives of the National Association of State Alcohol and Drug Abuse Directors will discuss the start-up, development, and maintenance of drug courts and how state and local drug abuse authorities can play a role in the process.

The conference will also offer a variety of workshops on issues such as drug court self-assessment, cultural competence, the pharmacology of addiction, corporate presentation of drug testing, reentry drug courts, DUI/drug courts, and treatment of special populations.

• For more information on the NADCP's Seventh Annual Training Conference, contact Dean Schultheiss at 703-706-0576 or visit the association's Web site at www.nadcp.org.